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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL67054]

Removal of the Maximum Contaminant Level Goal for Chloroform From
the National Primary Drinking Water Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is removing the zero MCLG for chloroform from its National Primary Drinking Water Regulations (NPDWRs) in accordance with a recent order of the U.S. Court of Appeals for the District of Columbia Circuit.

DATES: The effective date of this rule is May 30, 2000.

ADDRESSES: The public docket for this and earlier rulemakings concerning the NPDWRs for disinfectants and disinfection byproducts (D/

DBPs), including the proposal, public comments in response to the proposal, other major supporting documents, and the index to the docket are available in the Water Docket, U.S. Environmental Protection Agency, 401 M Street SW, East Tower Basement, Washington, DC 20460. For information on how to access docket materials, please call the docket at (202) 2603027 between 9 a.m. and 3:30 p.m. Eastern Standard Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Jennifer McLain at the U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (MC 4607), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone (202) 2600431. For general questions, please contact the Safe Drinking Water Hotline, (800) 4264791, Monday through Friday from 9 a.m. to 5:30 Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

A. Background

In December, 1998 EPA promulgated National Primary Drinking Water Regulations (NPDWRs) for disinfectants and disinfection byproducts (D/DBPs)

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that included a Maximum Contaminant Level Goal (MCLG) of zero for chloroform, a disinfectant byproduct. The MCLG was challenged by the Chlorine Chemistry Council and Chemical Manufacturers Association, and the U.S. Court of Appeals for the District of Columbia Circuit found that EPA had not used the best available, peer-reviewed science to set the MCLG as required by the Safe Drinking Water Act. In *Chlorine Chemistry Council and Chemical Manufacturers Association v. EPA*, (No.

981627) filed on March 31, 2000, the Court issued an order vacating the zero MCLG. Today EPA is removing the MCLG for chloroform from its NPDWRs to ensure that the regulations conform to the Court's order. No other provision of the D/DBP regulations is affected.

B. Good Cause Under the Administrative Procedure Act

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because today's action is ministerial, to ensure the Code of Federal Regulations conforms to the Court's order. Thus, notice and public comment are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). For this same reason, EPA has also determined that it has good cause under 5 U.S.C. 553(d) to make the rule effective upon publication.

C. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a significant regulatory action and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section B), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 1044). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in

sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not impose technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in 63 FR 69390 (Dec. 16, 1998).

The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the Agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2).

As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 30, 2000. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This action is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 141

Environmental protection, Drinking water, Public utilities.

Dated: May 18, 2000.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 141 NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g1, 300g2, 300g3, 300g4, 300g5, 300g6, 300j4, 300j9, 300j11.

141.53 [Amended]

2. Section 141.53 is amended by removing the entry for chloroform.

[FR Doc. 0013202 Filed 52600; 8:45 am]

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